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COMMISSIONERS  
JAM A. COATES, 4TH DISTRICT  
MAN  
PAULA H. BETHEA, 1ST DISTRICT  
SUE C. ERWIN, 2ND DISTRICT



COMMISSIONERS  
REV. DAVID L. TERRY, 3RD DISTRICT  
RANDOLPH MARSHALL TALLEY, 5TH DISTRICT  
FREDERICK A. HOEFER, II, 6TH DISTRICT  
CYNTHIA GRAHAM HOWE, MEMBER AT LARGE

GARY R. BAKER  
EXECUTIVE DIRECTOR

# State of South Carolina

## State Ethics Commission

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Columbia, S.C. 29211

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STATE DOCUMENTS  
NEWSLETTER

SEPTEMBER 1992

93-001

### NEW COMMISSION STAFF

Robin White is the new assistant in the investigative office. Prior to rejoining the Commission after a twelve year absence, Robin worked for the Budget and Control Board.

Ruth Tidwell, the Campaign Disclosure coordinator, previously worked for the Legislative Audit Council and the Legislative Energy Committee.

The Commission Legal Counsel, Zeb Williams, graduated from The Citadel and USC Law School. Zeb is a Desert Storm veteran.

Somewhat of an old-timer by now, Margaret M. Hudson joined the staff in January as replacement Legal Assistant. Margaret previously worked with the Richland County Public Defender's Office.

We welcome them all to the staff. Please call on them for any assistance.

### NEW COMMISSIONERS

Five new members of the State Ethics Commission have recently been appointed by Governor Carroll Campbell. Four fill vacancies and one is an at-large appointee as provided in the new ethics statute, such appointment was effective July 1, 1992.

Representing the 1st Congressional District is Paula Bethea of Hilton Head Island. Paula, a graduate of USC, is Director of Client Relations and Business Development for Bethea, Jordan, and Griffin, PA of Hilton Head. She previously served on the

Governor's Restructuring Committee and the Children's Trust Fund.

The 2nd District representative is Sue C. "Corky" Erwin, an attorney with Sinkler and Boyd. A native of Spartanburg, she is a graduate of Queens College and the USC School of Law.

R. Marshall Talley will represent the 5th Congressional District. A native of Waynesboro, VA, he is a 40-year resident of Sumter where he is owner of Talley Construction Company.

Florence attorney Frederick A. Hoefer, II will represent the 6th District. He is a graduate of Clemson and USC School of Law. He practices law with Harwell, Ballenger & DeBerry.

Cindy Graham Howe, filling an at-large seat on the Commission, received Bachelors and Masters degrees from Western Carolina University before graduating from the USC School of Law. She practices law in Myrtle Beach with Van Osdell, Lester, Howe & Rice.

### ETHICS GUIDES

In January 1992, the State Ethics Commission published the Guide to the South Carolina State Ethics Act. Those Guides were distributed to all State agencies, counties, municipalities, and public service districts in the State in early January with a request that copies be made available to all employees, members, or officials.



The Commission has reprinted the Guide and has a limited supply available. These Guides should be made available to all new as well as current members, officials, and employees. If you need copies, please contact the Commission office as soon as possible as supplies are limited.

#### TRAINING SESSIONS

The Commission is providing a general training session at the Commission Office on Tuesday, October 27th from 9:00-12:00 at no cost. Space is limited to 20, so please register by letter, prior to October 20th. Depending upon the need, the Commission envisions future monthly "train the trainer" programs. Details will be published in future newsletters.

The Commission provided on site training to more than 7,000 persons during the last fiscal year and continues to be available to speak to public agency staff and members on site as well as to professional groups or civic organizations.

#### COMMISSION MEETING SCHEDULE

The Commission is tentatively scheduled to meet:

Wednesday, October 21, 8:30 a.m.

Wednesday, November 18, 8:30 a.m.

Any matters requiring Commission action, such as advisory opinions, should be addressed to the Commission in sufficient time to allow staff response. There are a number of advisory opinions awaiting Commission action so leave sufficient leeway for Commission staffing to process such opinion requests.

#### MEALS/SPEECHES/OFFICIAL CAPACITY

Generally, a public official, public member or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group. In prior advisory opinions, though, the State Ethics Commission has advised that public employees would not be

prohibited from accepting a meal incidental to giving a speech in an official capacity at a meal function where the meal is provided to all other persons participating in the same event.

Although "official capacity" is not defined in the Ethics Reform Act, for purposes of the Act, the Commission defines speaking engagements by public employees "in an official capacity" as those which (1) arise because of the position held by the employee; (2) involve matters which fall within the responsibility of the agency or employee; and (3) are services the agency would normally provide and for which the employee would be subject to expense reimbursement by the public employee's agency. Official capacity also means those duties that are attached to a public office or employment by the Constitution, statutes, executive order, promulgated rules and regulations, published job description or agency directive. The Commission also notes that "speaking before a public or private group" encompasses not only a traditional breakfast or luncheon speech but also more extended participation as a speaker at a workshop, seminar, or training session, or as a panel participant.

Public employees, public members, or public officials may receive promotional or educational items of less than \$10 in value or may receive a personalized plaque up to \$150 in value. No honoraria may be received for speaking in an official capacity.

Public employees are prohibited from receiving travel reimbursement from the sponsoring group, however, that group may reimburse the employee's agency with the employee being reimbursed in accordance with agency travel procedures. On the other hand, public officials and public members may accept reasonable expense reimbursement incurred in a reasonable time and manner to accomplish the purpose of the speaking engagement.



SEC A092-133

June 9, 1992

POST EMPLOYMENT RESTRICTIONS

An employee of a regulatory agency would not be prohibited from accepting employment with private businesses or governments involving matters in which he did not participate directly and substantially.

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SEC A092-145

September 16, 1992

MEMBERSHIP ON COUNTY REGULATORY BOARDS

(1) An engineer or steel company president are not prohibited from serving on County Boards. (2) Professionals are not prohibited from performing ministerial functions but may not represent clients before any agencies or units of county government. (3) A debris hauler is not prohibited from serving on the county Recycling Committee. (4) The Public Works Director is advised to recuse himself from issues benefitting the county as a result of his service on a regional Authority.

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SEC A092-168

June 9, 1992

FILING OF ECONOMIC INTEREST BY COUNTY FORESTRY BOARD MEMBERS FORESTRY COMMISSION NOT A REGULATORY AGENCY

Members of county forestry boards are not required to file a Statement of Economic Interests. The Forestry Commission is not a regulatory agency or department for purposes of the Ethics Reform Act.

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SEC A092-179

September 16, 1992

PUBLIC SERVICE DISTRICT COMMISSIONER ASSOCIATED WITH HEALTH INSURANCE PROVIDER

A commissioner of a public service district would not be prohibited from serving due to his involvement as a writing agent for a health insurance provider which has received a contract to provide such insurance to county employees.

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SEC A092-182

June 9, 1992

BOARD MEMBER WITH INTEREST IN AGENCY CONTRACT

A Board member is not prohibited from offering free advice and recommendations concerning commission computer software needs. His employer is not prohibited from contracting with the commission if he is not authorized to perform an official function regarding such contracts.

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SEC A092-185

June 9, 1992

FIREMAN'S ASSOCIATION PAYING TRAVEL FOR FIRE INSTRUCTORS

The State Firemen's Association may make an annual contribution to the SC Fire Academy for use by that agency in reimbursing employee/instructors for conducting regional training programs.

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SEC A092-196

June 9, 1992

SCHOOL AT RISK COORDINATOR CONDUCTING WORKSHOPS

A school At Risk Coordinator would not be prohibited from conducting motivational workshops which are not conducted in her official capacity consistent with the off-duty employment guidelines.

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SEC A092-202

June 9, 1992

OFF-DUTY EMPLOYMENT

Off-duty employment activities which are not within the official responsibility of a public employee and which are conducted in accordance with the off-duty employment guidelines would not be prohibited.

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SEC A092-204

June 9, 1992

VENDOR SUPPORT OF EVENTS AND CONFERENCES

Vendors are not prohibited from providing a public agency with products for use in agency fund-raising activities. The State Ethics Commission has advised that vendor support of conference activities be in accordance with conference solicitation guidelines.

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SEC A092-205

June 9, 1992



TRAVEL EXPENSE REIMBURSEMENT FOR BOARD SERVICE

Employees who also serve on a statewide board or committee may be reimbursed directly by that board or committee on which they serve.

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SEC A092-208 June 9, 1992

AGENCY HEAD SERVING ON ASSOCIATION BOARD

A public employee is not prohibited from serving on the board of a trade association in accordance with the off-duty employment guidelines.

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SEC A092-210 June 9, 1992

AGENCY HEAD SERVING ON NATIONAL BOARD

An agency director who serves on a national board may receive reasonable expense reimbursement directly from the national board.

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SEC A092-211 June 9, 1992

SOLICITATION OF DONATIONS

Employees of the Department of Social Services are not prohibited from soliciting individuals, businesses, clubs, or schools to provide funds or goods to assist with agency activities.

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SEC A092-212 September 16, 1992

USE OF BONUS POINTS FOR PERSONAL USE

Personal use of bonus points for lodging or frequent flyer points obtained through State travel is not an ipso facto violation of the Ethics Reform Act; however, it is a policy decision which should be addressed by the General Assembly or the applicable government agency.

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SEC A092-214 June 9, 1992

CITY COUNCILMEMBER VOTING ON ISSUE AFFECTING SON'S COMPANY

A City Councilmember is not prohibited from participating in deliberations and votes on

matters affecting a contract to a company of which the Councilmember's son is a principal since the Councilmember's son is not an immediate family member as defined in Section 8-13-100(18).

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SEC A092-227

June 9, 1992

RECEIPT OF CONSULTANT FEE BY PUBLIC EMPLOYEE

A public employee may not receive a consultant fee for engaging in a work group in her official capacity.

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SEC A092-229

September 16, 1992

BOARD OF TRUSTEE MEMBER AS SUBCONTRACTOR ON CONTRACT WITH AGENCY

A Clemson University Trustee who is an officer and part owner of an architectural firm may not be a subcontractor to a business contracting with the University if he is authorized to perform an official function regarding such contract.

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SEC A092-233

September 16, 1992

SCHOOL PERSONNEL SERVING ON BANK ADVISORY BOARD

A School Superintendent and a School Board Chairman would not be prohibited from serving on the advisory board of a branch bank, however, they would be required to follow the procedures of Section 8-13-700(B) on matters affecting the bank in their official capacity as school officials.

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SEC A092-235

September 16, 1992

BANK CEO SERVING ON COUNTY DEVELOPMENT BOARD

With the premise that Section 8-13-775 does not apply to the situation, a nonprofit development corporation would not be prohibited from seeking a loan with the bank with which a Development Board member is associated, however the member is required to follow the disclosure and disqualification procedures of Section 8-13-700(B) if required to take any official action on the loan.



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SEC A092-238

June 9, 1992

FOUNDATION DIRECTOR BEING PAID BONUS

The State Ethics Commission advises that the Budget and Control Board's Division of Human Resource Management be contacted concerning the hiring of a foundation director to be compensated in part through a "productivity bonus".

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SEC A092-243

June 9, 1992

POST EMPLOYMENT BY BUREAU CHIEF

A Bureau Chief engaged in enforcing controlled substances statutes would not be prohibited from seeking employment from a private sector pharmacy for a period of one year unless such employment involves a matter involving that pharmacy in which the employee was directly and substantially involved.

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SEC A093-001

September 16, 1992

BOARD MEMBER'S PARTICIPATION IN BOARD ACTIONS

A School Board Member would not generally be prohibited from taking actions on school assignments or school buildings since such actions do not directly affect his economic interests.

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SEC A093-002

September 16, 1992

ATTORNEY SERVING ON MUNICIPAL LAND BANK COMMISSION

Neither an attorney who serves on a town Land Bank Commission nor members of his law firm would be prohibited from representing clients before town agencies since his service is mandated by town ordinance.

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SEC A093-003

September 16, 1992

OFF-DUTY EMPLOYMENT OF BUILDING CODES EMPLOYEES

County Building Inspectors would not be prohibited from off-duty employment with a local electrical builder or a local

plumber, consistent with the off-duty employment guidelines, unless such work is for a regulated business and creates a frequent or continuing conflict.

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SEC A093-004

September 16, 1992

POST-EMPLOYMENT OF FORMER PUBLIC EMPLOYEE

A former employee of a public agency would not be prohibited from consulting with business firms or free lance consulting, however, he is prohibited from lobbying the agency or representing clients before the agency for a period of twelve months from the date of leaving employment.

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SEC A093-005

September 16, 1992

PROGRAM MANAGER SEEKING POST-EMPLOYMENT

An employee of the Attorney General's Office would not be prohibited from seeking or obtaining employment from a law firm engaged in the associate counsel program if he does not participate in matters affecting such firms which he interviews and provided he takes no action and obtains no financial benefit from legal representation in the program.

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SEC A093-006

September 16, 1992

REIMBURSEMENT OF TRAVEL EXPENSES FOR PROVIDING SERVICES

The Commission advises that employees may be reimbursed by another agency in accordance with authorized procedures if approved in advance by both agencies.

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SEC A093-007

September 16, 1992

COUNCILMEMBERS DELIBERATING AND VOTING ON BUS RATE INCREASE

A Mayor and Councilmember would be required to follow the procedures of Section 8-13-700(B) if a bus rate increase issue would affect the economic interests of the law firms with which they are associated. Those procedures are not required merely as a result of the relationship of the bus company as a client of the firm from which no legal fees would be obtained.

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CAMPAIGN DISCLOSURE REMINDER

Candidates and committees are reminded to file an initial Campaign Disclosure Form within ten days after receiving or expending \$500. They are also reminded of the following upcoming deadlines, even if there has been no account activity since the last filing:

October 12 - Quarterly Filing (For July-September)

October 19 - Pre-election Filing (For General Election) \*required even if no campaign receipts or expenditures

January 11 - Quarterly filing (For October-December)

Quarterly filings continue until such time as (1) the campaign account is closed in accordance with Section 8-13-1370 and (2) a final report is filed with this office.

Copies of the form can be secured from this office or from the County Clerk of Court. Please contact this office, the State Ethics Commission, at 253-4192 (or P.O. Box 11926, Columbia, SC 29211) if we can assist you with the filing of this form.

**State Ethics Commission**

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